

## FEATURES

As the Government moves to tackle obesity with the Public Health Bill, **Doug Bailey** ponders the individual's role.



Picture: FAIRFAX

# Thin end of the policy wedge

**A** BILLION people may be starving elsewhere in the world, but here eating and drinking to excess is a defining social norm.

Obesity and the predisposition to heart disease and diabetes that go with it seem to be part of a trend that — if unchecked — will confront us with an unpalatable truth that the lives of our children may be shorter than our own.

The problem is not unique to New Zealand.

In most developed countries policy-makers are grappling with the "obesity epidemic" and what to do about it.

In our case the response has been the Public Health Bill, a measure intended to deal with diabetes, heart disease and other non-communicable diseases by focusing on their causes.

If obesity is a cause, then the proposition is that health officials should be able to deal with it.

On its face that proposition seems reasonable. But in unpicking the layers of cause and effect it is clear that the attention of officials must inevitably turn to what causes obesity and it is here that the problems begin.

For the architects of the bill and the health lobby groups that helped advance it, the causes of obesity and its effect are a straightforward thing.

People get fat because of alcohol, fatty foods and bad nutritional choices.

Those bad choices are encouraged by the food and beverage industry. Regulate advertising and people will make better choices. Problem solved.

So it is that the director-

general of health is to be given the power to impose codes of practice and ultimately promote regulation on any matter which in the minds of officials constitutes a "cause".

It is a broad basis for intervention that will capture a range of activity, from the marketing of fast foods to the reporting of health issues by the media.

For all its extremes, it is an approach that has found favour with health bureaucrats elsewhere, even in the United States where the tension between the

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role of individual versus that of the state is intrinsic to any proposal involving increased government intervention.

But where in the US the debate is about the sufficiency of personal responsibility as the means of dealing with the obesity problem, here personal responsibility seems not to have been considered at all.

Instead the assumption seems to be that individuals are passive actors, their behaviours determined by a dualistic struggle between a well-intentioned government and a private sector already cast as the enemy in the war on fat.

For the parent who chooses to

feed their child chips, chocolate cake and soft drink at breakfast, it is a convenient absolution. My child is fat not because of me, but because of the cafe that put chips and chocolate cake on the menu.

We are victims and someone else is to blame.

**I**T IS a rationale that the bill seems only too happy to indulge. Parental decision-making may well be a demonstrable "cause" which should be addressed, yet officials and the Government propose to take the path of least resistance, blaming the farmer because potatoes get made into chips.

One casualty in all of this is industry self-regulation. The adoption of voluntary codes of practice to moderate commercial behaviour is long established.

Look at the Advertising Standards Authority.

An industry-backed vehicle for promoting responsible and truthful marketing, the authority has operated successfully for more than 30 years. Its credibility is such that many think that it is a government body.

But whatever public benefit the authority has brought, or may bring in the future, is in danger of being pushed aside.

Also dismissed is the opportunity for the Government to work with industry on programmes that work.

Instead a model is to be put in place that seems to assume that only the Government has the necessary knowledge, benign intention and capacity to do the "right thing".

But the Health Ministry — the Government's main actor in all of this — is far from the model of administrative neutrality usual in the Government's core policy agencies.

The active promotion of public health is part of its mandate and, like the health advocacy groups it supports, the ministry has a partisan interest that in practice may not be particularly as well attuned to other fundamental values such as personal choice and responsibility.

Accordingly, there must be real concerns about giving to it and any compliant minister the power to promulgate codes and regulations wherever and whenever they choose, particularly when they do so on the assumption that obesity is attributable

to a commercial cause.

On its face, then, the Public Health Bill is about how to deal with an emerging health problem. But dig deeper and the bill represents nothing more nor less than a presumption about how far the state should go in determining our personal choices.

It may also be that the bill is symptomatic of a bigger and perhaps more debilitating problem than obesity and that is the readiness with which we accept and even expect the state to shoulder a burden of responsibility that is properly our own.

■ *Doug Bailey is a Wellington lawyer with the firm Russell McVeagh. These are his personal views.*